

## **EXHIBIT 8**

### **WATER IN BASEMENT CLAIMS PROCESS PLAN**

#### **I. Introduction**

The Water in Basement ("WIB") Claims Process is the damages reimbursement component of the Metropolitan Sewer District of Greater Cincinnati's ("MSD") WIB Program. Subject to the requirements of this Plan, occupants who incur damages as a result of the backup of wastewater into buildings due to inadequate capacity in MSD's Sewer System (both the combined and the sanitary portions) can recover those damages. This plan also provides a means for occupants to recover damages arising from backups that are the result of MSD's negligent maintenance, destruction, operation or upkeep of the Sewer System. The Claims Process is not intended to address water in buildings caused by overland flooding not emanating from MSD's Sewer System or caused by blockages in occupants' own lateral sewer lines.

This WIB Claims Process Plan will become effective on January 1, 2004 for covered backups occurring on or after that date.

#### **II. Public Notification regarding WIB Claims Process**

MSD will notify the public regarding the key elements of the WIB Claims Process in the various public notices issued regarding the WIB Customer Service Program under Section II of the WIB Customer Service Program Plan attached as Exhibit 7 to the Consent Decree. The information provided will include a brief description of the Claims Process and information about how to obtain and submit claim forms.

#### **III. Claim Initiation**

There are three steps to initiating a claim for reimbursement of damages under this Plan.

First, an occupant who has incurred property damage as a result of a basement backup that it believes is MSD's responsibility under this Plan must notify MSD within 24 hours of the time that the occupant discovers the WIB. Such notification can be made by calling the MSD Call Center at (513) 352-4900. Section III of the WIB Customer Service Program Plan attached at Exhibit 7 of the Consent Decree establishes the operational parameters of the Call Center.

Second, the occupant must allow MSD personnel and/or contractors reasonable access to the affected property to investigate the cause of the WIB.

Third, the occupant must file a claim form. This form will be given to customers who request cleanup assistance under the WIB Customer Service Program implemented under Section XIII

and Exhibit 7 of the Consent Decree. Claim forms will also be provided to occupants who request them from MSD at (513) 352-4900. Additionally, claim forms will be available at MSD's internet site: [www.msdbg.org](http://www.msdbg.org). The content of this form may evolve over time.

#### **IV. Claim Eligibility**

The following guidelines will govern the reimbursement of damage claims submitted under this Plan.

##### **A. Scope of WIBs Covered.**

1. The Claims Process will only reimburse damages arising from basement backups caused by inadequate capacity in MSD's Sewer System or that are the result of MSD's negligent maintenance, destruction, operation or upkeep of the Sewer System. MSD will not pay claims for damages caused by WIBs arising from blockages in occupants' lateral lines or arising from overland flooding not emanating from MSD's Sewer System.

2. MSD will exercise its good faith reasonable engineering judgment to determine the cause of a WIB. This determination will be based on a consideration of a variety of factors, which can include:

- amount of precipitation;
- property WIB history;
- condition of sewer system in neighborhood;
- results of a visual inspection of the neighborhood to look for signs of overland flooding;
- neighborhood WIB history;
- capacity of nearby public sewer lines; and
- topography.

Depending on the circumstances, the determination may also be based on an inspection of the private lateral and/or inspection of nearby public lines.

3. At locations that have experienced a basement backup due to inadequate capacity within the previous two years and where MSD has not resolved the capacity issue, MSD will treat that backup as MSD's responsibility and dispense with the assessment phase of the Claims Process. In such cases, MSD will pay appropriately documented claims without further investigation as to the cause of the WIB incident. The same presumption and expedited process will apply to locations that experience basement backups caused by blockages in public sewer lines of which MSD had notice and opportunity to clear, but did not clear.

B. Damages will be paid for losses to real and personal property that can be documented. For that reason, claimants must, as a condition to the payment of any claim, cooperate with MSD's efforts to investigate and document the losses that have occurred as a result of a WIB

incident. Claimants will be asked to submit copies of any documents that they may have that substantiate the existence and/or extent of their damages. Among other measures taken to document losses, MSD may: prepare an inventory of damaged items, take photographs of the building or property present there during or after the WIB incident or the cleaning process, request information about the value, type, age or other characteristics of items for which damages are claimed, and require the owner or occupant to submit documentation about damaged items. The property owner or occupant must provide MSD reasonable access to the property for the purpose of documenting losses to personal property.

C. Claimants must notify MSD regarding the WIB within twenty-four hours of the time that the claimant discovers the WIB.

D. Claimants must allow MSD personnel and/or contractors reasonable access to the affected property to investigate the cause of the WIB.

E. Claims will be subject to the limitations on Ohio political subdivision liability imposed by ORC 2744.05.

## **V. Future Claims Mitigation**

MSD may request in writing of occupants whom it has compensated under this Plan to undertake reasonable mitigation measures, which can include:

- A. allowing MSD to install, at MSD's expense, a backflow prevention device and agreeing to maintain such backflow prevention device in working order;
- B. refraining for two years from storing personal property below a previously documented high water line or less than two feet above the basement floor; or
- C. refraining for two years from installing new carpet or drywall below a previously documented high water line or less than two feet above the basement floor.

If MSD makes such a request, and the occupant refuses and a WIB subsequently occurs, the extent to which the occupant complied with the request may be a factor that is considered by the Office of the Solicitor for the City of Cincinnati in determining the amount to pay for any claims pertaining to the subsequent WIB.

## **VI. Claims Processing**

Claims will be made to the Office of the Solicitor for the City of Cincinnati. The Office of the Solicitor will make a final written decision regarding payment of claims made under this Plan within 60 days of receiving such claims. Any decision denying a claim in full or resulting in an offer of payment of an amount less than the full amount of the claim will include pertinent information regarding the process for pursuing the claim in Ohio State court.